

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of Section 309(j)) PP Docket No. 93-253
of the Communications Act -)
Competitive Bidding)
Narrowband PCS)

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and

Amendment of the Commission's)
Rules to Establish New Narrowband) GEN Docket No. 90-314
Personal Communications Services) ET Docket No. 92-100

To: The Commission

REPLY COMMENTS OF PAGING NETWORK, INC.

Paging Network, Inc. ("PageNet"), through its attorneys and pursuant to 47 C.F.R. § 1.415, hereby submits its reply comments in the above-captioned proceeding.¹ In support of these reply comments, the following is respectfully shown:

I. None Of The 12.5 MHz Response Channels Should Be Redesignated For Entrepreneurs' Block Licensing

In the *Further Notice*, the Commission sought comment on whether some of the MTA and BTA paging response channel licenses should be redesignated for larger service areas with bidding limited only to those entities eligible to bid for entrepreneurs'

¹ *Third Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, PP Docket No. 93-253, GEN Docket No. 90-314, ET Docket No. 92-100, released August 17, 1994 (hereinafter "*Further Notice*").

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block licenses.² This proposal was opposed by PageNet and other commenters.³ The reasons for opposing the redesignation of paging response channel licenses to entrepreneurs' blocks find their genesis in the fact that the allocated response channel spectrum is extremely limited and is only available to a specific and limited class of carrier.⁴ Therefore, it would be intolerably inequitable if this very limited allocation of spectrum were not available on an equal basis to all eligible carriers.

In addition, although PageNet supports the Commission's efforts to provide meaningful opportunities for designated entities, redesignating some of the response channel licenses as entrepreneurs' blocks will not assist designated entities in entering the paging marketplace. Specifically, since a qualifying eligibility requirement for the response channel licenses is that the paging carrier already be an existing Part 22 or Part 90 paging licensee, existing paging designated entity licensees qualified to seek paging response channels will have already entered the paging marketplace. As such, these existing paging designated entities need no, and should not be given,

² *Further Notice* at ¶77.

³ Comments of PageNet at 2-4; Comments of PageMart, Inc. ("PageMart") at 12-15; Comments of AirTouch Paging ("AirTouch") at 14; Comments of Mobile Telecommunication Technologies Corp. ("Mtel") 11-13; Comments of the Personal Communications Industry Association at 7.

⁴ The response channel spectrum will only be available to Part 22 and Part 90 paging licensees.

preferential treatment over their present and existing paging competitors in the licensing of paging response channels.

Accordingly, for these reasons, and in light of the record in this proceeding, none of the paging response channels should be redesignated as entrepreneurs' block licenses.

II. All Of The Response Channels Should Be Licensed On An MTA Service Area Basis

In the licensing of the paging response channels, the Commission must operate from three (3) factual predicates. The first is that there are only eight (8) paging response channels available for licensing in any given area. The second is that the entities that will be seeking these channels primarily are existing paging licensees that already operate wide-area paging systems. The third is that increasing the service area of some of the eight (8) response channel licenses to a regional or nationwide basis will exclude from the licensing of such channels numerous wide-area paging carriers that simply do not operate regional or nationwide paging systems.

In the comments filed in response to the *Further Notice*, several parties advocated an increase in response channel service areas.⁵ PageNet advocated an increase in the service areas of the BTA response channel licenses to MTA size.⁶ PageMart advocated the increase of the present MTA size response channel licenses to regional and nationwide service areas, but

⁵ Comments of PageNet at 5-6; Comments of PageMart at 15-16; Comments of AirTouch at 13-14; see also Comments of Mtel at 12.

⁶ Comments of PageNet at 5-6.

stated the response channel BTA service areas should remain intact.⁷ AirTouch stated that all of the response channel service areas should be MTA size or greater.⁸ Having reviewed and evaluated the comments in this proceeding, and weighing the requirements of both small and large paging carriers, PageNet continues to believe, particularly since large paging carriers will be able to aggregate response channel licenses, that MTA service areas would best serve the competing needs of all incumbent paging carriers.

The Commission has already recognized that paging carriers presently compete with an average of five (5), and in some markets nineteen (19), other paging carriers.⁹ This fact, coupled with the fact that the response channel licenses will likely be utilized by incumbent paging carriers that increasingly provide wide-area services, indicate that most of the carriers that will seek paging response channels will not seek them on an BTA service area basis. However, although carriers that will seek to license response channels will provide service on a greater than BTA service area basis, a vast majority of these carriers will not require service areas on a regional or nationwide basis. In addition, from a technical standpoint, it

⁷ Comments of PageMart at 15-16; see also Comments of Mtel at 12.

⁸ Comments of AirTouch at 13.

⁹ See *Second Report and Order, In the Matter of Implementation of Section 3(n) and 332 of the Communications Act*, 9 FCC Rcd 1411, 1468 (1994).

is unlikely that a BTA sized paging system could offer and operate a viable messaging service with the response channels.

In balancing the needs and requirements of all paging carriers that will seek response channel licenses, the Commission must weigh the needs and requirements of the few carriers that will require regional and nationwide response channel capacity against the majority of carriers that do not require and could not afford regional or nationwide response channel licenses. Since only eight (8) paging response channels are available for licensing to paging carriers in any given area, the redesignation of any of the paging response channel licenses to regional or nationwide service areas would unfairly preclude numerous paging carriers from competing for such licenses. Therefore, it will be easier and more meaningful for all incumbent paging licensees if those carriers requiring greater than MTA response channel service areas aggregate response channel licenses to achieve their desired coverage, rather than force carriers with non-regional and non-nationwide systems to acquire licenses with more coverage area than their systems' require. If carriers that do not require regional and nationwide response channel spectrum are forced to acquire such expanded service area licenses, the result will be fallow response channel spectrum in the areas that the carrier does not serve and possibly the difficulty of partitioning the unused service areas of the license at some point in the future to another carrier. In addition, in light of the fact that regional and nationwide response licenses would be awarded at significantly higher costs, increasing the response

channel service areas, greater than MTA size, will preclude many carriers from a meaningful opportunity to bid on this extremely scarce spectrum.

III. Conclusion

Incumbent paging licensees need the paging response channels to offer advanced services, to compete with each other, and to compete with the new narrowband PCS advanced paging service providers. The Commission must recognize that designating paging response channels as entrepreneurs' blocks, or licensing response channels on a regional or nationwide service area basis, will immediately restrict the number of channels available for use by a majority of existing paging carriers. Once a response channel is designated for a regional or nationwide service area, every paging carrier that does not have a regional or nationwide system is effectively precluded from the possibility of acquiring these very few paging response channels. Since there are only eight (8) channels available in any given area, the loss of even one (1) response channel available for licensing to all incumbent carriers would be inequitable. Accordingly, in order to license the response channels on an equitable basis, none of the response channel licenses should be redesignated as entrepreneurs' block licenses and the service

areas of the BTA response channel licenses should be increased to MTA size.

Respectfully submitted,

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October 3, 1994

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